

1 Title 5. EDUCATION

2 Division 1. CALIFORNIA STATE Department of Education

3 Chapter 19. Child Care and Development Programs

4 Subchapter 2. General Requirements

5 Article 1. General Provisions

6
7 *Delete Section 18021 from Subchapter 2, Article 1:*

8 **§ 18021. Payments to Family Child Care Providers.**

9 ~~(a) Contractors who operate through family child care homes shall pay each non-employee family~~
10 ~~child care provider the same rate(s) the provider charges non-subsidized families.~~

11 ~~(b) For non-employee family child care home providers that do not serve non-subsidized children, the~~
12 ~~contractor shall pay a rate that is within 1.5 standard deviations of the mean market rate for family child~~
13 ~~care homes as established by the most recent survey of the local resource and referral agency.~~

14 NOTE: Authority cited: Section 8261, Education Code. Reference: Section 8261, Education Code.

15
16 *Add Subchapter 2.5, Article 1, Sections 18074 to 18076.3 to read:*

17 **Subchapter 2.5. Utilization of the Regional Market Rate CEILING**

18 **Article 1. General Provisions**

19 **§ 18074. Applicable Regulations.**

20 The regulations contained in this Subchapter, except for those contained in Section 18075.1, shall
21 apply to contractors using the regional market rate RATE ceiling to develop reimbursement agreements
22 with licensed and license-exempt providers of child care and development services to eligible families.
23 Section 18075.1 applies to contractors developing reimbursement agreements with licensed providers
24 only. **FOR THE PURPOSES OF THIS SUBCHAPTER, THE TERM “CONTRACTOR” SHALL**
25 **ALSO APPLY TO COUNTY WELFARE DEPARTMENTS OPERATING PROGRAMS**
26 **PURSUANT TO ARTICLE 15.5 OF CHAPTER 2 OF DIVISION 1 OF THE EDUCATION CODE.**

27 NOTE: Authority cited: Sections 8265 and 8269, Education Code. Reference: Sections 8265 and 8269,
28 Education Code.

29
30 **§ 18074.1. Definitions.**

31 (a) “Certified need for child care” means the number of days and hours of child care and
32 development services approved and documented by the contractor as sufficient to meet the family’s need
33 for child care ~~as specified in Education Code section 8263 (a)(2).~~

34 **(B) “COMPARABLE LOCAL RATE” MEANS THE AMOUNT CALCULATED BY THE**
35 **CONTRACTOR PURSUANT TO SECTION 18074.4.**

36 ~~(D)(C)~~ “Derived rate” means the rate calculated pursuant to Section 18074.3(i).

~~(e)~~ “School age” means children enrolled in kindergarten through grade nine.

~~(C)(D)~~ “Established rate” means the documented rates providers charge unsubsidized families pursuant to Section ~~S~~ 18074.3 or 18074.4 but not to exceed the regional market ceiling.

~~(b)(D)~~ **(E)** “Maximum payment rate subsidy amount” means the regional market rate **RATE** ceiling plus any applicable adjustments pursuant to Section 18075.1 or 18075.2.

~~(E)(F)~~ **(F)** “Regional market **RATE** ceilings” means the maximum amount calculated by the Department that providers in different regions of the state may be reimbursed for the same type of child care for the same age child in accordance with statutory ceilings currently in effect.

~~(F)(G)~~ **(G)** “Subsidized families” means eligible families who are receiving child care and development services and on whose behalf the Department or the California Department of Social Services is providing a reimbursement, in whole or in part.

~~(G)(H)~~ **(H)** “Unsubsidized” means children or families other than those defined in subsection ~~(F)(G)~~.

NOTE: Authority cited: Sections 8261, 8263, and 8269, Education Code. Reference: Sections 8263, 8269, and 8461, Education Code.

§ 18074.2. Application of Regional Market Rate RATE Ceilings.

~~(a) Providers who establish a rate pursuant to Section 18074.3 of this subchapter, and who operate with a valid license per Title 22 California Code of Regulations, Division 12, or are school districts adhering to the requirements of Title 22 California Code of Regulations, Division 12, shall be reimbursed pursuant to their established rate for the appropriate category in accordance with Section 18075, but not to exceed the maximum payment rate.~~

~~**(b) Providers who establish a rate pursuant to Section 18074.3 of this subchapter, and who are exempt from licensure per California Health and Safety Code sections 1596.792(d), (f), and (g), and Title 22 California Code of Regulations, Sections 101158 and 102358, shall be reimbursed pursuant to their established rate for the appropriate category in accordance with Section 18075, but not to exceed 90 percent of the maximum payment rate for family child care homes. All other providers who establish a rate pursuant to Section 18074.3 of this subchapter shall be reimbursed pursuant to their established rate for the appropriate category in accordance with Section 18075, but not to exceed 90 percent of the maximum payment rate for family child care homes.**~~

Contractors shall use the age of the child, the certified need for **CHILD** care, and the ~~APPLICABLE~~ facility type to ~~LOCATE~~ **IDENTIFY** the applicable regional market **RATE** ceiling.

(a) The applicable facility type shall be determined as follows:

(1) Child care center **RATE** ceilings shall be used for those providers who:

(A) Operate licensed centers; or

(B) Are public or private schools operating extended day programs; or

(C) Operate centers on tribal or federal lands; or

(D) Operate PUBLIC recreation programs AS DEFINED IN EXEMPT FROM LICENSURE PURSUANT TO Health and Safety Code Section 1596.792(G) AND THAT MEET THE REQUIREMENTS FOR PARTICIPATION IN THE ALTERNATIVE PAYMENT PROGRAM, INCLUDING:

I. USING SIGN-IN/SIGN-OUT DOCUMENTS TO RECORD ATTENDANCE PURSUANT TO SECTION 18065;

II. PROVIDING ADULT SUPERVISION FOR ALL CHILDREN DURING ALL HOURS OF OPERATION; AND

III. ENSURING THAT ALL EMPLOYEES WHO HAVE CONTACT WITH CHILDREN HAVE COMPLETED CRIMINAL HISTORY BACKGROUND EXAMINATIONS COMPARABLE TO THE CRIMINAL HISTORY BACKGROUND EXAMINATIONS REQUIRED BY CHAPTER 3.35 OF DIVISION 2 OF THE HEALTH AND SAFETY CODE, COMMENCING WITH SECTION 1596.60.

(2) Family child care home RATE ceilings shall be used for those providers who:

(A) Operate licensed family child care homes; or

(B) PROVIDE CARE OPERATE A CHILD CARE BUSINESS in a home setting on tribal or federal land TO CHILDREN FROM MORE THAN ONE FAMILY WHO ARE UNRELATED TO THE PROVIDER.

(3) In-home/exempt RATE ceilings shall be used for all other providers. If no ceiling is provided for the applicable reimbursement rate category pursuant to Section 18075, the contractor shall determine a ceiling by multiplying the regional market RATE hourly ceiling by the hours of certified need.

(b) For children enrolled in kindergarten who are less than six years of age, the applicable age category shall be determined as follows:

~~(1) PROVIDERS IDENTIFIED IN (A)(3) ABOVE SHALL UTILIZE THE 6+ AGE CATEGORY.~~

~~(2)(1) Providers identified in (a)(1) AND (A)(2) above shall utilize:~~

(A) The 6+ age category when the child is considered school-age for licensing purposes.

(B) The 2-5 age category when the child is considered preschool age for licensing purposes.

(2) PROVIDERS IDENTIFIED IN (A)(2) AND (A)(3) ABOVE SHALL UTILIZE:

(A) THE 6+ AGE CATEGORY WHEN THE CHILD IS SIX YEARS OF AGE OR OLDER.

(B) THE 2-5 AGE CATEGORY WHEN THE CHILD IS LESS THAN SIX YEARS OF AGE.

NOTE: Authority cited: Sections 8265 and 8269, Education Code. Reference: Sections 8265 and 8269, Education Code.

§ 18074.3. Establishment of Provider Reimbursement Rate FOR CENTERS AND FAMILY CHILD CARE HOMES.

Providers of child care and development services to eligible families shall provide documentation to

1 ~~the contractor of the rate(s) they charge. When a provider has not established a rate, as defined in Section~~
2 ~~18075 of this subchapter, that corresponds to the certified need of the family, the contractor shall establish~~
3 ~~the appropriate rate as follows:~~

4 ~~(a) Identify a rate category that corresponds to a provider's established rate.~~

5 ~~(b) Divide the provider's rate by the regional market rate ceiling for the appropriate rate category.~~

6 ~~This will yield a percentage.~~

7 ~~(c) Apply the resulting percentage to the regional market rate ceiling for the rate category to be used~~
8 ~~for reimbursement. This shall be considered to be the provider's established rate for that category.~~

9 ~~This section applies to providers as described in Sections 18074.2 (a)(1) AND, (a)(2), AND (A)(3)~~
10 ~~**AND SHALL BECOME EFFECTIVE ON JULY 1, 2004.**~~

11 ~~(a) Providers of child care and development services to subsidized families shall provide~~
12 ~~documentation to the contractor of all the rates they charge unsubsidized families. Providers who are~~
13 ~~unable OR UNWILLING to meet the requirements of this section MAY ESTABLISH A RATE IN~~
14 ~~ACCORDANCE WITH SHALL BE SUBJECT TO THE REQUIREMENTS OF Section 18074.4 OR~~
15 ~~**SECTION 18074.5, AS APPLICABLE.**~~

16 ~~(b) Upon seeking to establish a rate, providers SUBJECT TO SUBCHAPTER 10 OF CHAPTER 19~~
17 ~~OF THESE REGULATIONS shall provide documentation THAT 25 PERCENT OF THE CHILDREN~~
18 ~~ENROLLED IN THE FACILITY ARE UNSUBSIDIZED AS REQUIRED BY THIS SECTION.~~

19 ~~(C) THE PROVIDER MUST SUPPLY DOCUMENTATION FOR EACH RATE PAID BY~~
20 ~~UNSUBSIDIZED FAMILIES FOR A CUMULATIVE PERIOD OF AT LEAST THREE OF THE~~
21 ~~PRECEDING 12 MONTHS. IF PROVIDERS HAVE MORE THAN ONE RATE FOR~~
22 ~~UNSUBSIDIZED FAMILIES, PROVIDERS SHALL IDENTIFY TO THE CONTRACTOR BY AGE~~
23 ~~GROUP AND HOURS OF CARE EACH RATE USED BY UNSUBSIDIZED FAMILIES AND SHALL~~
24 ~~IDENTIFY THE RATE MOST COMMONLY USED BY UNSUBSIDIZED FAMILIES. IF THE~~
25 ~~PROVIDER HAS BEEN OPERATING FOR LESS THAN THREE MONTHS DURING THE~~
26 ~~PRECEDING 12 MONTHS, THE PROVIDER MUST SUPPLY DOCUMENTATION COVERING~~
27 ~~THE PERIOD OF TIME THAT THE PROVIDER HAS BEEN OPERATING. IF THE PROVIDER~~
28 ~~HAS A VALID LICENSE PURSUANT TO TITLE 22 CALIFORNIA CODE OF REGULATIONS,~~
29 ~~THE CONTRACTOR SHALL ASSUME THAT THE PROVIDER HAS BEEN CONTINUOUSLY~~
30 ~~OPERATING SINCE THE DATE THE LICENSE WAS ISSUED, UNLESS EVIDENCE IS~~
31 ~~PROVIDED THAT DEMONSTRATES THAT THE PROVIDER OPERATED FOR A SHORTER~~
32 ~~PERIOD.~~

33 ~~**(1) THE PROVIDER SHALL SUPPLY DOCUMENTATION FOR EACH RATE PAID BY**~~
34 ~~**UNSUBSIDIZED FAMILIES. IF PROVIDERS HAVE MORE THAN ONE RATE FOR**~~
35 ~~**UNSUBSIDIZED FAMILIES, PROVIDERS SHALL IDENTIFY TO THE CONTRACTOR EACH**~~
36 ~~**RATE USED BY UNSUBSIDIZED FAMILIES, AND THE MOST COMMONLY USED RATE**~~

1 **BY AGE GROUP AND TIME BASIS.**

2 **(2) DOCUMENTATION FOR EACH RATE PAID BY UNSUBSIDIZED FAMILIES SHALL**
3 **BE PROVIDED FOR:**

4 **(A) AT LEAST THREE CONSECUTIVE MONTHS DURING THE PRECEDING 12**
5 **MONTHS.**

6 **(B) THE PERIOD OF TIME THAT THE PROVIDER HAS BEEN OPERATING, ONLY IF**
7 **THE PROVIDER HAS BEEN OPERATING FOR LESS THAN THREE CONSECUTIVE**
8 **MONTHS DURING THE PRECEDING 12 MONTHS.**

9 **(3) IF THE PROVIDER HAS A VALID LICENSE PURSUANT TO TITLE 22 CALIFORNIA**
10 **CODE OF REGULATIONS, THE CONTRACTOR SHALL ASSUME THAT THE PROVIDER**
11 **HAS BEEN CONTINUOUSLY OPERATING SINCE THE DATE THE LICENSE WAS ISSUED,**
12 **UNLESS EVIDENCE IS PROVIDED THAT DEMONSTRATES THAT THE PROVIDER**
13 **OPERATED FOR A SHORTER PERIOD.**

14 ~~(D)(C)~~ The documentation required BY (B) shall be established by written policies adopted by the
15 contractor.

16 ~~(E)(D)~~ Documentation shall consist of any ~~OR ALL~~ of the following:

17 (1) Written agreements signed by both the provider and a parent of unsubsidized children, including
18 the hours of care, age of child, and ~~reimbursement~~ **PAYMENT** amount.

19 ~~(2) COPIES OF CANCELLED CHECKS TO THE PROVIDER ISSUED BY A PARENT OF~~
20 ~~UNSUBSIDIZED CHILDREN SHOWING THE PERIOD COVERED BY THE PAYMENT~~
21 **DECLARATIONS, SIGNED UNDER PENALTY OF PERJURY BY THE PARENT(S) OF**
22 **UNSUBSIDIZED CHILDREN, INDICATING THE HOURS OF CARE, AGE OF CHILD, AND**
23 **PAYMENT AMOUNT.**

24 (3) Copies of payment ledgers maintained by the provider that include the payment period.

25 (4) Documents retained for tax purposes by the provider showing the payment amount and the period
26 covered by such payment.

27 (5) Any other documentation specified in the written policies of the contractor that is reasonably
28 related to verification of the rate paid by unsubsidized families.

29 ~~(F)(E) WRITTEN DD~~ **Declarations, ATTESTATIONS, OR AFFIRMATIONS** by the provider are
30 not sufficient documentation for the purpose of establishing a rate.

31 ~~(G)(F)~~ The contractor may verify the documentation supplied by the provider. **THE**
32 **VERIFICATION PROCESS MAY BE DONE** by comparing the rate in the documentation to the rate
33 in the database maintained by the local resource and referral agency, by telephone contact with the
34 provider, by visiting the facility operated by the provider, or by other means as established in the written
35 policies of the contractor. **CONTRACTORS MAY REQUEST DOCUMENTATION OF THE**
36 **RATE PAID BY MORE THAN ONE UNSUBSIDIZED FAMILY, IF SUCH DOCUMENTATION**

1 **IS REASONABLY RELATED TO VERIFYING THE RATE OR RATES PAID BY**
2 **UNSUBSIDIZED FAMILIES.** Contractors shall retain a record of verification efforts and the results of
3 **those efforts.**

4 **(G) THE DOCUMENTATION SHALL BE TREATED AS CONFIDENTIAL INFORMATION**
5 **AND MAINTAINED BY THE CONTRACTOR IN A SECURE LOCATION. ONLY**
6 **AUTHORIZED EMPLOYEES OF THE CONTRACTOR, AND AUTHORIZED EMPLOYEES**
7 **OF THE DEPARTMENT AND THE CALIFORNIA DEPARTMENT OF SOCIAL SERVICES**
8 **WILL HAVE ACCESS TO THE DOCUMENTATION.**

9 **(h) In each county, all agencies operating pursuant to Article 15.5 of Chapter 2 of Part 6 of Division 1**
10 **of the Education Code shall develop a single policy regarding the documentation required in Subsections**
11 **(b) through (f) above AND THE TRANSFER OF DOCUMENTATION BETWEEN AGENCIES TO**
12 **FACILITATE PROVIDER REIMBURSEMENT.** Transfer of a family between agencies or stages of
13 **CalWORKs child care in the same county shall not be delayed or refused due to differences in policy**
14 **regarding rate documentation.**

15 **(i) When none of the provider's established rates correspond to the certified need of the family, the**
16 **contractor shall establish a derived rate as follows:**

17 **(1) Identify the rate category that corresponds to the provider's most commonly used established rate.**

18 **(2) Divide the provider's most commonly used established rate by the regional market RATE ceiling**
19 **for the same rate category. This will yield a percentage.**

20 **(3) Apply the resulting percentage to the regional market RATE ceiling for the rate category to be**
21 **used for reimbursement. This shall be considered the derived rate for that category.**

22 **(j) Reimbursement shall be the lesser of the amount the provider would charge unsubsidized families**
23 **for the same hours of child care or the derived rate determined by subsection (i) above.**

24 **(k) If the family's need for care can be met by more than one rate category as defined in Section**
25 **18075, the contractor shall determine the derived rate in the category that will yield the lowest**
26 **reimbursement.**

27 **NOTE: Authority cited: Sections 8222, 8265, 8266.5, 8625, 8269, and 8357, Education Code. Reference:**
28 **Sections 8222, 8265, 8266.5, 8269, and 8357, Education Code.**

30 **§ 18074.4. Establishment of PROVIDER Reimbursement Rate FOR CENTERS AND FAMILY**
31 **CHILD CARE HOMES Utilizing the Comparable Local Rate.**

32 **This section applies to providers described in Sections 18074.2(a)(1),(a)(2), and (A)(3), who are unable**
33 **OR UNWILLING to establish a rate pursuant to Section 18074.3. THIS SECTION SHALL**
34 **BECOME EFFECTIVE ON JULY 1, 2004.**

35 **(a) Services provided by an agency utilizing a center-based contract with the Department shall be**
36 **reimbursed at the agency's contract rate OR THE AGENCY'S ESTABLISHED RATE THAT**

1 CORRESPONDS TO THE CERTIFIED NEED FOR CARE.

2 (b) For all other providers, the contractor shall determine a comparable local rate for the provider's
3 services that corresponds to the family's certified need for care.

4 (c) To determine the comparable local rate, the contractor shall randomly select AT LEAST five
5 reimbursement rates established pursuant to Section 18074.3 and currently in use by providers operating
6 the same type of facility in the same or comparable zip codes. If five examples of rates established
7 pursuant to Section 18074.3 are not available in the same or comparable zip codes, the contractor shall
8 select AT LEAST five established rates in the same county or region that correspond to the subsidized
9 family's certified need for care.

10 (d) The contractor shall calculate the average of the FIVE rates selected pursuant to subsection (c).
11 This shall be the comparable local rate. Contractors shall retain documentation of the rates selected and
12 computations performed pursuant to this subsection.

13 (e) TO DETERMINE THE AMOUNT OF REIMBURSEMENT, ~~THE~~ The contractor shall
14 REIMBURSE USE the provider's requested rate UP TO OR the comparable local rate, WHICHEVER
15 IS LOWER.

16 (F) FOR THE DURATION OF EACH FISCAL YEAR, CONTRACTORS SHALL APPLY
17 THE SAME COMPARABLE LOCAL RATES THROUGHOUT THE ZIP CODES, COUNTIES,
18 OR REGIONS FOR WHICH THE COMPARABLE LOCAL RATES HAVE BEEN
19 DETERMINED. IN EACH COUNTY, ALL AGENCIES OPERATING PURSUANT TO
20 ARTICLE 15.5 OF CHAPTER 2 OF PART 6 OF DIVISION 1 OF THE EDUCATION CODE
21 AND REIMBURSING PROVIDERS LOCATED IN THE SAME ZIP CODE(S) SHALL USE THE
22 SAME COMPARABLE LOCAL RATE.

23 ~~(F)~~(G) If the family's certified need for care can be met by more than one rate category, as defined in
24 Section 18075, the contractor shall UTILIZE, WHENEVER POSSIBLE, CALCULATE THE
25 COMPARABLE LOCAL RATE IN the rate category that will yield the lowest reimbursement.

26 NOTE: Authority cited: Sections 8222, 8265, 8266.5, 8269, and 8357, Education Code. Reference:
27 Sections 8222, 8265, 8266.5, 8269, and 8357, Education Code.

28
29 § 18074.5 Establishment of HOURLY Reimbursement Rate for In-Home/Exempt Providers.

30 This section applies to providers as described in Section 18074.2(a)(3). ~~THESE PROVIDERS~~
31 ~~SHALL BE REIMBURSED PURSUANT TO THEIR REQUESTED RATE UP TO THE REGIONAL~~
32 ~~MARKET CEILING FOR THE APPROPRIATE RATE CATEGORY, NOT TO EXCEED THE~~
33 ~~MAXIMUM SUBSIDY AMOUNT. IF SUFFICIENT DATA ARE UNAVAILABLE TO~~
34 ~~CALCULATE A COMPARABLE LOCAL HOURLY RATE, THE PROVIDER SHALL BE~~
35 ~~REIMBURSED BASED ON THE LESSER OF THE IN-HOME/EXEMPT CEILING OR THE~~
36 ~~PROVIDER'S REQUESTED RATE.~~

1 NOTE: Authority cited: Sections 8265 and 8269, Education Code. Reference: Section 8265 and 8269,
2 Education Code.

3
4 *Renumber Section 18074.2(c) to Section 18074.6 to read:*

5 **§ 18074.6. DETERMINATION OF REIMBURSEMENT AMOUNT.**

6 ~~(C)~~ Services for subsidized families shall be reimbursed based on the lesser of the **MAXIMUM**
7 **SUBSIDY AMOUNT REGIONAL MARKET RATE CEILING**, the established rate, or the derived
8 **rate, whichever is applicable. IF AN ESTABLISHED RATE OR DERIVED RATE IS**
9 **UNAVAILABLE, REIMBURSEMENT SHALL BE BASED ON THE LESSER OF THE**
10 **REGIONAL MARKET RATE CEILING, THE COMPARABLE LOCAL RATE, OR THE**
11 **PROVIDER'S REQUESTED RATE.**

12 **NOTE: AUTHORITY CITED: SECTIONS 8265 AND 8269, EDUCATION CODE.**

13 **REFERENCE: SECTIONS 8265 AND 8269, EDUCATION CODE.**

14
15 **§ 18075. Reimbursement Rate Categories.**

16 Contractors shall reimburse providers in accordance with the following rate categories, up to the
17 regional market rate ceiling for each category.:

18 (a) Hourly, which shall only be used for the following:

19 (1) ~~When a child's certified need for child care and development services is no more than 15 hours~~
20 ~~per week and no more than six hours on any day within the week; A child's certified need for child care~~
21 ~~of less than 30 hours per week and less than six hours on any day; or~~

22 (2) An unscheduled but documented need of ~~less than six hours or less~~ per occurrence, such as the
23 parent's need to work overtime, that exceeds the ~~child's~~ certified need for child care ~~and development~~
24 ~~services; or~~

25 (3) That portion of the ~~child's~~ certified need for child care ~~and development services~~ that exceeds
26 52.5 hours per week and is not included in the provider's full-time weekly or full-time monthly rate. This
27 provision applies only if the family utilizes no more than one provider to meet the ~~child's~~ entire need for
28 child care and development services. Additional payment made under the hourly rate for this purpose
29 cannot exceed the provider's full-time weekly or full-time monthly rate.

30 (b) Daily, which shall only be used for the following:

31 (1) ~~When a child's A~~ certified need for child care ~~and development services occurs on three days or~~
32 ~~less each week for more than~~ of six hours ~~or more~~ per day; or

33 (2) An unscheduled but documented need of ~~more than~~ six hours ~~or more~~ per occurrence, such as the
34 parent's need to work on a regularly scheduled day off, that exceeds the ~~child's~~ certified need for child
35 care. ~~and development services; or~~

36 (3) ~~The parent's variable work schedule lacks a pattern of recurring work days and days off on a~~

1 ~~weekly or monthly basis and, in the judgment of the contractor, prohibits the child's certified need for~~
2 ~~child care and development services from being met by applying any other rate in this section.~~

3 (c) Part-time weekly, which shall only be used when ~~the child's a~~ certified need for child care ~~and~~
4 ~~development services is greater than 15 hours per week and no more less than 30 hours per week and the~~
5 ~~need for child care and development services occurs on at least three days per week.~~

6 (d) Full-time weekly, which shall only be used when ~~the child's a~~ certified need for child care ~~and~~
7 ~~development services is greater than 30 hours or more per week.~~

8 (e) Part-time monthly, which shall only be used ~~when~~ for the following:

9 (1) ~~The child's A~~ certified need for child care ~~and development services is greater than 15 hours but~~
10 ~~no more of less than 30 hours per week and the that need for child care and development services occurs~~
11 ~~in every week of the month; or~~

12 (2) ~~The child's A~~ certified need for child care ~~and development services~~ averages ~~more than 15 hours~~
13 ~~but no more less than 30 hours per week when calculated by dividing the total number of hours of~~
14 ~~services needed in the month by 4.33, and the that need for child care and development services occurs in~~
15 ~~every week of the month.~~

16 (f) Full-time monthly, which shall only be used ~~when~~ for the following:

17 (1) ~~The child's A~~ certified need for child care ~~and development services is of more than 30 hours or~~
18 ~~more per week and the that need for child care and development services occurs in every week of the~~
19 ~~month; or~~

20 (2) ~~The child's A~~ certified need for child care ~~and development services~~ averages ~~more than 30 hours~~
21 ~~or more per week when calculated by dividing the total number of hours of services needed in the month~~
22 ~~by 4.33, and the that need for child care and development services occurs in every week of the month.~~

23 NOTE: Authority cited: Sections 8265 and 8269, Education Code. Reference: Sections 8220, 8222, and
24 8357, Education Code.

25 26 **§ 18075.1. Rate Adjustment for Evenings and/or Weekends for Licensed Providers.**

27 (a) This section applies only to ~~services reimbursed~~ reimbursement to licensed providers, ~~and only~~
28 ~~when the contractor is reimbursing a provider using a category specified in Section 18075(c), (d), (e), or~~
29 ~~(f), except this section shall not apply to reimbursement provided pursuant to the hourly rate defined in~~
30 ~~Section 18075(a).~~

31 (b) When ~~the child's a~~ **LICENSED PROVIDER IS MEETING THE** certified need for child care
32 ~~and development services occurs between the~~ **THAT** includes hours during the period from ~~of~~ 6:00 p.m.
33 ~~and to 6:00 a.m. on weekdays, or any time on weekends~~ day of the week or from 6 a.m. Saturday to 6:00
34 a.m. Monday, the contractor shall multiply the ~~provider rate as follows~~ regional market **RATE** ceiling for
35 the applicable rate category by the appropriate adjustment factor as follows:

36 (1) By 1.25 when ~~more than~~ 50 percent or more of the certified need for child care ~~and development~~

services occurs during this period.

(2) By 1.125 when **AT LEAST TEN PERCENT, BUT** ~~more than 25 percent but no more less than~~ 50 percent of the certified need for child care and development services occurs during this period.

(c) Reimbursement to the provider shall be the lesser of the amount the provider charges unsubsidized families for the same hours of child care, or the maximum subsidy amount as determined pursuant to Subsection (b) above.

NOTE: Authority cited: Sections 8265 and 8269, Education Code. Reference: Sections 8220, 8222, and 8357, Education Code.

§ 18075.2. Rate Adjustment for Children with Exceptional Needs.

(a) When child care and development services are provided to a child with exceptional needs, the contractor shall multiply the ~~provider rate~~ **LESSER OF THE REGIONAL MARKET RATE CEILING OR THE RATE DETERMINED PURSUANT TO SECTION 18074.3 OR 18074.4 OR THE regional market ceiling, WHICHEVER IS LOWER, FOR THE APPLICABLE RATE CATEGORY** by only one of the following:

(1) By 1.2, when the child has exceptional needs as defined in Education Code Section 8208(1).

(2) By 1.5, when the child is severely disabled as defined in Education Code Section 8208(x).

(b) Contractors shall apply this ~~rate~~ adjustment only when there is documentation that additional services and/or accommodations for that particular child are being provided, and such services and/or accommodations result in an on-going financial impact on the provider.

NOTE: Authority cited: Sections 8222, 8265, 8265.5, and 8269, Education Code. Reference: Sections 8208(1) and 8208(x), Education Code.

§ 18076. Limitations on Reimbursement.

(a) Single Rate Category. Contractors shall only ~~provide reimbursement~~ reimburse providers using a single rate category as defined in Section 18075 ~~unless using more than one category results in a lower amount of reimbursement than would result if using a single category.~~

(b) Notwithstanding ~~§~~ Subsection (a), contractors may provide reimbursement to a provider using both a daily and an hourly rate when:

(1) No single rate established by the provider corresponds to the family's need for care; and

(2) The provider has established a rate in both daily and hourly rate categories pursuant to Section 18074.3; and

(3) Using both rates is consistent with the rates the provider charges unsubsidized families needing similar hours of care.

~~(b)~~(c) Notwithstanding ~~§~~ Subsection (a), when Sections 18075 (a)(2), 18075(a)(3), or 18075(b)(2) are applicable, contractors may reimburse providers for those categories in addition to the applicable single

category.

(c) Contractors may reimburse a child care provider using a rate that exceeds the regional market rate ceilings when there are no more than two child care providers in the region offering services meeting the needs of the subsidized family pursuant to Education Code section 8263, and the provider has established a rate pursuant to Section 18074.3 of this article that exceeds the ceilings.

(d) Contractors shall adopt a policy governing absences that includes reasonable limitations for reimbursement purposes.

(d) Contractors shall not be bound by the regional market **RATE** ceilings when there are, in the region, no more than two child care providers of the type needed by the subsidized family. For the purposes of this ~~SSubsection~~, types of providers are licensed child care centers, licensed family child care homes, and exempt providers.

NOTE: Authority cited: Sections 8265 and 8269, Education Code. Reference: Sections 8222, 8266.5, and 8357, Education Code.

§ 18076.1. Provider Payment Other Reimbursable Fees.

(a) A family may choose a child care provider who charges a higher fee than the contractor's maximum payment rate.

(b) In such cases, the family shall be responsible for the difference between the rate charged by the provider and the contractor's maximum payment rate.

(c) The contractor shall ~~pay~~ reimburse fees charged by providers such as registration, materials, ~~and/or~~ and insurance fees charged by providers, either in a single payment or prorated over a 12-month period, as long as:

(1) The ~~same fee is charged to nonsubsidized families~~, provider documents that the contractual terms used for services to unsubsidized families require payment for such fees; and

(2) The fees or prorated portion thereof, plus the rate established for the provider pursuant to this subchapter, ~~does do~~ not exceed the ~~MAXIMUM PAYMENT RATE REGIONAL MARKET RATE RATE CEILING~~ **MAXIMUM SUBSIDY AMOUNT**.

NOTE: Authority cited: Sections 8265 and 8269, Education Code. Reference: Sections 8222, 8266.5, and 8357, Education Code.

§ 18076.2. Reimbursement for Absences Reimbursable Hours of Care.

(a) This section does not apply to reimbursement for services provided pursuant to Sections 18075(a)(2), ~~and~~ (a)(3), and ~~Sections 18075(b)(2) and (b)(3)~~, of this ~~SSubchapter~~.

(b) Reimbursable hours ~~of child care and development services~~ for the child's regular provider shall include:

(1) Time that a child's absence is deemed excused pursuant to Section 18066 and the time the child is

absent when the contractual terms used by the provider for services to ~~nonsubsidized~~ unsubsidized families require payment for such absences. Reimbursement for an excused absence based on the child's illness shall not occur in lieu of providing accommodations for the child pursuant to the applicable provisions of the Americans with Disabilities Act.

(2) Time that the provider has a paid ~~HOLIDAY OR VACATION~~ **DAY OF NON-OPERATION** and can provide documentation that the contractual terms used by the provider for services to ~~nonsubsidized~~ unsubsidized families require payment for such ~~HOLIDAYS OR VACATIONS~~ **DAY(S) OF NON-OPERATION**. The number of reimbursable paid ~~HOLIDAYS OR VACATIONS~~ **DAY(S) OF NON-OPERATION** shall be limited to a maximum of ten days per fiscal year per provider.

(c) Reimbursable hours ~~of child care and development services~~ for an eligible alternate provider shall include:

(1) Time that ~~child care and development~~ services are provided when the regular provider has a paid ~~HOLIDAY OR VACATION~~ **DAY OF NON-OPERATION** and the parent has to obtain an alternate provider to meet the certified need for child care ~~and development services~~. Payment to an alternate provider when the regular provider has a paid ~~HOLIDAY OR VACATION~~ **DAY OF NON-OPERATION** shall be limited to ten days per child per fiscal year.

(2) Time that child care ~~and development~~ services are provided by an eligible alternate provider when the child is ill and the parent has to obtain care from an eligible alternate provider. Payment to an alternate provider when the child is ill shall be limited to a maximum of ten days per child per fiscal year. Contractors may reimburse an alternate provider in excess of ten days per year based on the illness of the child if the parent provides a physician ~~STATEMENT THAT THE CHILD'S ILLNESS POSES A RISK TO OTHER CHILDREN~~ **VERIFICATION**.

(d) ~~The contractor shall not reimburse for child care and development services when~~ Reimbursable hours do not include:

(1) The ~~child is attending school~~ scheduled instructional minutes of a public educational program available to a school-age child, or a private school in which the child is enrolled and attending.

(2) ~~The~~ Time when the child is receiving any other child care and development services ~~except as specified in 18076.2(c)(2)~~.

(3) ~~For school age children, when services are provided during the usual hours of operation of a local public school available to the child, or a private school that the family chooses to attend, unless the child is receiving services from an alternate provider due to illness as specified in subsection 18076.2(b). Days on which the provider is not open to provide services, except as specified in subsection (b)(2). A contractor shall reimburse an alternate provider when the regular provider is not open to provide services and the subsidized family must obtain an alternate provider during the certified need for child care.~~

NOTE: Authority cited: Sections 8265 and 8269, Education Code. Reference: Section 8208(e), 8263, 8266.5, and 8357, Education Code.

1 **§ 18076.3. REIMBURSEMENT TO MULTIPLE PROVIDERS.**

2 **(A) EXCEPT FOR REIMBURSEMENT PURSUANT TO SECTION 18076.2(C),**
3 **CONTRACTORS SHALL REIMBURSE ONLY ONE PROVIDER OF CHILD CARE SERVICES**
4 **PER CHILD WHEN THE HOURS OF OPERATION OF THE CHILD CARE PROVIDER**
5 **SELECTED BY THE PARENT CAN ACCOMMODATE THE CERTIFIED NEED FOR CHILD**
6 **CARE. CONTRACTORS MAY REIMBURSE MORE THAN ONE PROVIDER PER CHILD**
7 **WHEN THE HOURS OF OPERATION OF THE FIRST PROVIDER CANNOT**
8 **ACCOMMODATE THE CERTIFIED NEED FOR CHILD CARE.**

9 **(B) NOTWITHSTANDING SUBSECTION (A), WHEN A FAMILY'S FIRST PROVIDER IS**
10 **NOT A LICENSED CENTER AND THE PARENT ALSO CHOOSES A LICENSED CENTER**
11 **FOR THE SPECIFIC PURPOSE OF PROVIDING THE CHILD WITH LARGE GROUP**
12 **SCHOOL READINESS EXPERIENCES, THE CONTRACTOR MAY ALSO REIMBURSE THE**
13 **SERVICES PROVIDED BY THE LICENSED CENTER PROVIDER.**

14 **(C) CONTRACTORS WHO PAY MULTIPLE PROVIDERS PURSUANT TO THIS**
15 **SECTION SHALL NOT PAY MORE THAN ONE PROVIDER FOR THE SAME PORTION OF**
16 **A CHILD'S CERTIFIED NEED FOR CHILD CARE.**

17 **NOTE: AUTHORITY CITED: SECTIONS 8265 AND 8269, EDUCATION CODE.**

18 **REFERENCE: SECTIONS 8265 AND 8269, EDUCATION CODE.**

19
20 **Subchapter 10. Alternative Payment Program**

21 **Article 2. Policies and Procedures**

22 *Delete Section 18220.5:*

23 **§ 18220.5. Eligible Providers.**

24 ~~**(A) CONTRACTORS SHALL NOT REIMBURSE CHILD CARE SERVICES FOR FAMILIES**~~
25 ~~**WHO CHOOSE LICENSED PROVIDERS WHO DO NOT SERVE AT LEAST 25 PERCENT**~~
26 ~~**UNSUBSIDIZED CHILDREN UNLESS THE PROVIDER REQUESTS AND THE CONTRACTOR**~~
27 ~~**GRANTS A WAIVER OF THIS REQUIREMENT.**~~

28 ~~**(B) THE PROVIDER MAY REQUEST A WAIVER UNDER THE FOLLOWING**~~
29 ~~**CIRCUMSTANCES:**~~

30 ~~**(1) THERE IS A LACK OF LICENSED FACILITIES IN LOCATIONS CONVENIENT TO THE**~~
31 ~~**SUBSIDIZED FAMILY; OR**~~

32 ~~**(2) THERE IS A LACK OF FACILITIES DESCRIBED IN SUBSECTION (A) OF SECTION**~~
33 ~~**18074.2 THAT ARE IN A LOCATION CONVENIENT TO THE SUBSIDIZED FAMILY AND HAVE**~~
34 ~~**RATES ESTABLISHED PURSUANT TO SECTION 18074.3; OR**~~

35 ~~**(3) THE SPECIFIC FACILITY CHOSEN BY THE SUBSIDIZED FAMILY IS CAPABLE OF**~~
36 ~~**MEETING THE SPECIAL NEEDS OF THE CHILD, AND OTHER FACILITIES WITH RATES**~~

~~ESTABLISHED PURSUANT TO SECTION 18074.3 WOULD BE LESS CAPABLE OF MEETING THOSE NEEDS.~~

~~(C) UPON THE PROVIDER'S REQUEST FOR A WAIVER PURSUANT TO SUBSECTION (B) ABOVE, THE CONTRACTOR SHALL MAKE A WRITTEN DETERMINATION OF WHETHER THE CIRCUMSTANCES JUSTIFY GRANTING OF THE WAIVER. THE CONTRACTOR SHALL MAINTAIN WRITTEN DETERMINATIONS IN THE FILES OF THE AGENCY.~~

NOTE: Authority cited: Section 8222.5, Education Code. Reference: Section 8222.5, Education Code.

Add Section 18220.6 to read:

§ 18220.6. Provider Rate. Family Co-Payment.

(a) A family may choose a child care provider regardless of the provider's rate.

(b) When a provider's rate and other allowable charges exceed the maximum subsidy amount, the family shall be responsible to pay the provider the difference between the provider's rate and the maximum subsidy amount. This shall be considered the family's co-payment. The contractor shall not be responsible for collecting the family's co-payment.

NOTE: Authority cited: Sections 8265 and 8269, Education Code. Reference: Section 8265 and 8269, Education Code.

Chapter 19.5 CalWORKs and Child Care and Development Programs

Subchapter 2. CalWORKs Stage 2 Child Care Program

Article 4. Provider Payments and Parent Fees

Amend Section 18413 to read:

§ 18413. Provider Payments.

(a) The contractor shall ~~pay~~ reimburse each provider no more than ~~the~~ that provider charges ~~nonsubsidized~~ nonsubsidized families, and not to exceed ~~the applicable regional market rate ceiling~~ maximum subsidy amount established pursuant to statute as defined in Section 18074.1. ~~1.5 standard deviations above the mean cost of care for that region established by the most recent regional market rate survey. For providers that serve only subsidized children, the contractor shall pay a rate that is not to exceed 1.5 standard deviations above the mean market rate established by the most recent regional market rate survey. When there are no more than two child care providers in the region providing the type of care needed by the family, the contractor is not bound by the maximum payment rate for that region.~~

(b) The contractor shall calculate the payment for child care on a monthly, weekly, daily, or hourly basis depending on the family's needs and the contractual terms used by the provider to charge ~~nonsubsidized~~ families for the same service. The payment basis shall not be calculated for the sole purpose of financially benefiting the provider.

(c) ~~(b)~~ Reimbursable hours of care shall include: work hours, commute hours, participation in county-

1 approved activities, and other eligible hours as approved by the contractor.

2 (1) Time necessary for the parent to travel between his/her work or work activity and the child care
3 provider;

4 (2) Time that a child is absent when the contractual terms used by the provider for services to
5 nonsubsidized families require payment for such absences; and

6 (3) Time that care is provided by another eligible provider when the child is ill or when the usual
7 provider of care has a paid holiday at the time that the parent must work or attend a work activity.

8 (d) Contractors shall adopt a policy governing absences that include reasonable limitations for
9 reimbursement purposes.

10 (e) The contractor shall pay registration fees charged by child care providers, as long as these fees are
11 the same as those charged to nonsubsidized families for the same purpose and the registration fee together
12 with the provider payment do not exceed the maximum payment rate.

13 NOTE: Authority cited: Sections 8261 and 8269, Education Code. Reference: Sections 8353 and 8357,
14 Education Code.

15 **Subchapter 3. CalWORKS Stage 3 Child Care Program**

16 **Article 4. Provider Payments and Parent Fees**

17 *Amend Section 18428 to read:*

18 **§ 18428. Provider Payments.**

19 (a) The contractor shall ~~pay reimburse~~ each provider no more than ~~the that~~ provider charges
20 ~~nonsubsidized unsubsidized~~ families, and not to exceed ~~the applicable regional market rate ceiling~~
21 ~~maximum subsidy amount established pursuant to statute as defined in Section 18074.1. 1.5 standard~~
22 ~~deviations above the mean cost of care for that region established by the most recent regional market rate~~
23 ~~survey. For providers that serve only subsidized children, the contractor shall pay a rate that is not to~~
24 ~~exceed 1.5 standard deviations above the mean market rate established by the most recent regional market~~
25 ~~rate survey. When there are no more than two child care providers in the region providing of the type of~~
26 ~~care needed by the family, the contractor is not bound by the maximum payment rate for that region.~~

27 (b) The contractor shall calculate the payment for child care on a monthly, weekly, daily, or hourly
28 basis depending on the family's needs and the contractual terms used by the provider to charge
29 nonsubsidized families for the same service. The payment basis shall not be calculated for the sole
30 purpose of financially benefiting the provider.

31 (e)(b) Reimbursable hours of care shall include: work hours, commute hours, participation in county-
32 approved activities, and other eligible hours as approved by the contractor.

33 (1) Time necessary for the parent to travel between his/her work or work activity and the child care
34 provider;

35 (2) Time that a child is absent when the contractual terms used by the provider for services to
36

1 ~~nonsubsidized families require payment for such absences; and~~

2 ~~(3) Time that care is provided by another eligible provider when the child is ill or when the usual~~
3 ~~provider of care has a paid holiday at the time that the parent must work or attend a work activity.~~

4 ~~(d) Contractors shall adopt a policy governing absences that include reasonable limitations for~~
5 ~~reimbursement purposes.~~

6 ~~(e) The contractor shall pay registration fees charged by child care providers, as long as these fees are~~
7 ~~the same as those charged to nonsubsidized families for the same purpose and the registration fees~~
8 ~~together with the provider payment do not exceed the maximum payment rate.~~

9 NOTE: Authority cited: Sections 8261 and 8269, Education Code. Reference: Sections 8354 and 8357,
10 Education Code.

35 3-25-04